

REMARKS

Upon entry of the present amendment, claims 1 and 3-10 will remain pending in the above-identified application with claims 7-8 remaining withdrawn from consideration based upon an earlier restriction requirement and claims 1, 3-6 and 9-10 standing ready for further action on the merits. Claims 1, 4, 6 and 10 have been amended.

The present amendments to the claims do not introduce new matter into the application as originally filed. For example, the amendments to claims 1 and 4 find support at page 11, lines 21-28 of the instant specification, respectively.

Further, the instant amendment does not raise substantial new issues for the Examiner's consideration nor require further search on the Examiner's part. At the same time, the instant amendments put the pending claims in condition for allowance and into a more proper format for issuance in a United States patent, by overcoming all outstanding rejections and objections of record.

Accordingly, proper consideration of each of the pending claims is respectfully requested at present, as is entry of the present amendment.

Claim Objection & Rejection under 35 U.S.C. § 112, 2nd Paragraph

At paragraph "3." and "4." on pages 2 and 3 of the Office Action, the Examiner has objected to claims 4 and 6 and rejected claims 1, 3-6 and 9-10 under 35 U.S.C. § 112, 2nd paragraph as being indefinite. Applicants respectfully traverse.

Reconsideration and withdrawal of the objection and the rejection are respectfully requested based on the following considerations.

Claim 1

In order to further clarify the present invention, claim 1 has been amended while reciting “the lithium ion-occluding and releasing material has been treated with an organosilicon base surface treating agent, and the negative electrode active material is surface-coated with a conductive coating.”

Claim 4

In order to further clarify the present invention, claim 4 has been amended while deleting the term “said” at the first line of claim 4 and reciting “the negative electrode active material is surface-coated with a conductive coating.”

Claim 6

In order to further clarify the present invention, in claim 6, the term “coated” has been changed to the term “coating,” pursuant to the Examiner’s suggestion.

Claim 10

In order to further clarify the present invention, in claim 10, the term “powder” has been changed to the term “particles.”

Upon entry of the instant amendment to the claims, the objection and the rejection have been overcome. Accordingly, Applicants respectfully request that the Examiner withdraw the objection and the rejection.

Claim Rejection - 35 U.S.C. § 102(a)

At pages 3 and 4 of the Office Action, claims 1, 5-6 and 9 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Miyawaki JP '653 (JP 2002-373653).

Applicants respectfully traverse this rejection and request that the Examiner withdraw the rejection.

Firstly, the cited reference, Miyawaki JP '653, is an intervening reference. Miyawaki JP '653 was published on December 26, 2002, while the present application was filed on November 26, 2003, claiming priority under 35 U.S.C. § 119 based on Japanese patent application No. 2002-342624 (JP '624) filed on November 26, 2002, which is earlier than the publication date of Miyawaki JP '653.

Further, the claimed inventions are fully supported by the Japanese priority application (i.e., JP '624), a verified English translation of which is submitted herewith. (See, for example, pages 1-2 (i.e., CLAIMS), and page 9, line 17 to page 10, line 2 of the verified English translation.)

Therefore, Applicants have perfected their claim to priority under 35 U.S.C. § 119 and have appropriately antedated the Miyawaki JP '653 reference. Subsequently, the rejection of claims 1, 5-6 and 9 over Miyawaki JP '653 has been overcome.

Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

CONCLUSION

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr. (Reg. No. 28,977) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By

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Attachment: Verified English Translation